

House File 226 - Introduced

HOUSE FILE 226

BY THOMAS

A BILL FOR

1 An Act relating to alternate energy by allowing the
2 establishment of alternate energy aggregation projects.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.1, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5A. An alternate energy aggregation
4 project established pursuant to section 476.49 shall not be
5 regarded as a public utility for purposes of this chapter.

6 Sec. 2. Section 476.25, Code 2013, is amended by adding the
7 following new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. The furnishing of electricity
9 pursuant to an alternate energy aggregation project under
10 section 476.49 shall not be considered an unnecessary
11 duplication of electric utility facilities and shall not
12 constitute a violation of this section.

13 Sec. 3. NEW SECTION. **476.49 Alternate energy aggregation**
14 **projects.**

15 1. *Definitions.* For purposes of this section, unless the
16 context otherwise requires:

17 a. "*Alternate energy aggregation project*" means an electric
18 generating facility with a nameplate generating capacity of
19 two megawatts or less which is comprised of a minimum of three
20 subscribers, at least one of which is an alternate energy
21 production facility as defined in section 476.42, who jointly
22 share the beneficial use of the electricity generated by the
23 project.

24 b. "*Subscriber*" means a retail customer of an electric
25 utility subject to this division who owns a subscription and
26 who has identified one or more physical locations to which the
27 subscription shall be attributed or attached.

28 c. "*Subscription*" means a proportional interest in
29 an alternate energy aggregation project, together with a
30 proportional interest in any state or federal tax credits for
31 which an alternate energy production facility associated with
32 the project may be eligible.

33 2. *Program established.*

34 a. An alternate energy aggregation project may be
35 established to encourage and enhance the ability of electric

1 utility customers to participate in and derive benefit from
2 alternate energy projects.

3 *b.* An alternate energy aggregation project established
4 pursuant to this section shall be subject to the following
5 requirements and specifications:

6 (1) A project may be established by an electric utility
7 or any other for-profit or nonprofit entity or organization,
8 including a subscriber organization whose sole purpose shall be
9 beneficially owning and operating the project. Additionally,
10 a project may be constructed, owned, and operated by a third
11 party under contract with a subscriber organization and
12 pursuant to a lease, sale-leaseback transaction, operating
13 agreement, or other third-party ownership arrangement.

14 (2) Physical locations to which subscriptions are
15 attributed or attached shall be located within the same county
16 or municipality and within the same electric utility service
17 area. Each subscription shall represent at least one kilowatt
18 of the alternate energy aggregation project's generating
19 capacity and shall supply no more than one hundred twenty
20 percent of the average annual consumption of electricity by
21 each subscriber at the premises to which the subscription is
22 attributed or attached. Subscriptions may be transferred
23 or assigned to a subscriber organization or to any person
24 or entity otherwise qualifying as a subscriber pursuant to
25 this section, and may be continued following relocation of
26 a subscriber to another location within the same county or
27 municipality and electric utility service area otherwise
28 meeting the requirements of this section. A subscription
29 following relocation may be subject to adjustment to reflect
30 any differences between the new and previous premises'
31 electricity usage rate. The board shall determine transfer,
32 assignment, and relocation criteria by rule.

33 (3) Electricity generated pursuant to the project shall
34 be aggregated and then proportionately allocated to each
35 subscriber. Excess electricity generated by the project not

1 utilized at the premises to which a subscription is attributed
2 or attached may be sold pursuant to a power purchase agreement
3 entered into with the electric utility at the same rates
4 applicable to alternate energy production facilities pursuant
5 to section 476.43.

6 (4) Notwithstanding the maximum purchase and ownership
7 restrictions contained in section 476.44, an electric utility
8 subject to this division shall enter into one or more power
9 purchase agreements with one or more projects to purchase a
10 minimum of five hundred kilowatts of electricity annually. The
11 board may by rule adjust this requirement on or after July 1,
12 2016.

13 (5) Federal or state tax credits for which the alternate
14 energy production facility associated with the project
15 qualifies shall be proportionately allocated to each
16 subscriber.

17 3. *Rules.* The board shall adopt rules governing the
18 establishment of alternate energy aggregation projects pursuant
19 to this section.

20 EXPLANATION

21 This bill allows the establishment of alternate energy
22 aggregation projects.

23 The bill defines an "alternate energy aggregation project"
24 to mean an electric generating facility with a nameplate
25 generating capacity of two megawatts or less which is comprised
26 of a minimum of three subscribers, at least one of which
27 is an alternate energy production facility as defined in
28 Code section 476.43, who jointly share the beneficial use of
29 the electricity generated by the project. The bill defines
30 a "subscriber" to mean a retail customer of an electric
31 utility who owns a subscription and who has identified one or
32 more physical locations to which the subscription shall be
33 attributed or attached. The bill defines a "subscription" to
34 mean a proportional interest in an alternate energy aggregation
35 project, together with a proportional interest in any tax

1 credits for which the alternate energy production facility
2 associated with the project may be eligible.

3 The bill states that the objective of a project shall be to
4 encourage and enhance the ability of public utility customers
5 to participate in and derive benefit from alternate energy
6 projects.

7 Regarding project ownership, the bill provides that
8 a project may be established by an electric or any other
9 for-profit or nonprofit entity or organization, including a
10 subscriber organization whose sole purpose is to beneficially
11 own and operate the project. A project can also be
12 constructed, owned, and operated by a third party under
13 contract with a subscriber organization and pursuant to a
14 lease, sale-leaseback transaction, operating agreement, or
15 other third-party ownership arrangement.

16 The bill provides that physical locations to which
17 subscriptions are attributed or attached must be located within
18 the same county or municipality and within the same electric
19 utility service area. The bill states that each subscription
20 shall represent at least one kilowatt of a project's generating
21 capacity and shall supply no more than 120 percent of the
22 average annual consumption of electricity by each subscriber
23 at the premises to which the subscription is attributed or
24 attached. The bill authorizes the transfer, assignment, or
25 relocation of subscriptions, under conditions to be determined
26 by the board by rule.

27 The bill states that electricity generated pursuant to
28 a project shall be aggregated and then proportionately
29 allocated to each subscriber, and that excess electricity
30 generated by the project not utilized at the premises to which
31 a subscription is attributed may be sold pursuant to a power
32 purchase agreement entered into with the electric utility
33 at the same rates applicable to alternate energy production
34 facilities pursuant to Code section 476.43.

35 The bill imposes purchase requirements on electric

1 utilities. The bill states that an electric utility shall
2 enter into one or more power purchase agreements with one
3 or more projects to purchase a minimum of 500 kilowatts of
4 electricity annually. The bill provides that the board may by
5 rule adjust this requirement on or after July 1, 2016, and that
6 subscribers shall qualify for the federal and state tax credits
7 for which the alternate energy production facility qualifies on
8 a proportionate basis.

9 The bill provides that an alternate energy aggregation
10 project shall not be considered a public utility subject to
11 the regulatory provisions of Code chapter 476, and that such a
12 project does not violate provisions contained in Code chapter
13 476 prohibiting the unnecessary duplication of electric utility
14 facilities.